

Remarks

Claims 1, 2, 4-6, 8-12, 14-19 and 21-23 are pending.

Claim 1 was amended to recite failing to find said received vendor identifier at the host system and “downloading, responsive to said failing to find said received vendor identifier at the host system, said program” See, for example, steps 140 and 146 of Figure 5 and the corresponding disclosure.

Claim 6 was amended to recite failing to find said file at the host system and “downloading, responsive to said failing to find said file at the host system, said program associated with said received hardware identifier” See, for example, steps 138 and 146 of Figure 5 and the corresponding disclosure.

Claim 11 was amended to recite wherein said loader routine is further adapted, after failing to find said received vendor identifier at the host system, to “download, responsive to said failing to find said received vendor identifier at the host system, said program associated with said received hardware identifier” See, for example, steps 140 and 146 of Figure 5 and the corresponding disclosure.

Claim 12 was amended to recite “said plurality of application programs” in order to provide the explicit antecedent basis required by the Examiner. This addresses a requirement of form expressly set forth in the Final Office Action. 37 CFR 1.116(b)(1).

The Applicants thank the Examiner for the detailed consideration of the correspondence filed on August 21, 2008, and submit additional claim amendments and remarks in an attempt to place the application into condition for allowance, or at least in better form for consideration on appeal. 37 CFR 1.116(b)(2).

It is requested that the claim amendments indicated in the preceding Listing of Claims be entered for the above reasons. As discussed in detail below, the claim amendments are intended to clarify previously claimed and patentable features.

With regard to the previous recital of Claim 1, the Examiner has taken the position that the recital of the final element: “failing to find said received vendor identifier at the host system and responsively downloading said program associated with said received hardware identifier over the communication channel from the host system to the target system”, “does not explicitly associate the downloading step with the precondition of failing to find the vendor identifier at the host system”. The amendment to Claim 1, which now recites “downloading, responsive to said failing to find said received vendor identifier at the host system, said program ...” is necessary to address the Examiner’s construction of

“responsively downloading” within the context of Claim 1 in an attempt to place the application into condition for allowance, or at least in better form for consideration on appeal.

Similar amendments have been made to Claims 6 and 11.

Applicants’ attorney does not agree with the Examiner’s position (e.g., since the prior recital of the term “responsively” of “responsively downloading” of necessity must relate back within the same single element to the immediately preceding recital of “failing to find said received vendor identifier at the host system”), but has amended Claim 1 in order to place it in condition for allowance, or at least to place it in better form for consideration on appeal.

It is respectfully submitted that the amended claims are allowable, or at least in better form for consideration on appeal. Accordingly, entry of the claim amendments is respectfully requested.

Claim Objections

The Examiner objects to Claim 12 on the ground of informalities.

Claim 12 was amended to recite “said plurality of application programs” in order to provide the explicit antecedent basis required by the Examiner. Hence, it is submitted that Claim 12 provides proper explicit antecedent basis.

REJECTIONS UNDER 35 U.S.C. § 103(a)

The Examiner rejects Claims 1, 2, 4, 5, 8, 11, 12, 14-19 and 21-23 on the ground of being unpatentable over U.S. Patent No. 6,701,521 (McLlroy et al.) in view of U.S. Patent Application Publication No. 2002/0010652 (Deguchi).

Claim 1, as amended, recites, *inter alia*, failing to find the received vendor identifier at the host system and downloading, responsive to such failing to find the received vendor identifier at the host system, the program associated with the received hardware identifier over the communication channel from the host system to the target system.

The Examiner admits (Office Action, page 5) that McLlroy et al. does not teach or suggest failing to find a received vendor identifier at a host system.

As such, McLlroy et al. must also not teach or suggest failing to find a received vendor identifier at a host system and downloading, *responsive to such failing to find such received vendor identifier at such host system*, a program associated with a received hardware identifier over a communication channel from such host system to a target system.

Deguchi discloses that music vendors are selected and displayed for purchase of bookmarked music clips, which music vendors correspond to the actual music vendors of

music marker devices. By tracking music vendor information corresponding to the music marker devices sold by the music vendors, when the user of the music marker device decides to purchase a music CD or audio cassette for the bookmarked music clip, the user may be directed to a web site or contact information for the music vendor from which the user purchased the music marker device. Accordingly, preference may be given to music vendors which, in addition to selling music CDs and audio cassettes of broadcast music, offer for sale the music marker devices which, the users may operate to bookmark broadcast music clips.

Deguchi further discloses (§70; Figure 15) that if at step 1540 server terminal 105 (Figure 1) does not find a matching music vendor ID in music vendor ID database 864 (Figure 12) corresponding to the music marker device ID, then at step 1580, server terminal 105 is configured to retrieve from music clip playlist database 862 (Figure 10) information corresponding to the bookmarked music clips and to transmit the retrieved information to user terminal 103 (Figure 1). Thereafter, at step 1590, server terminal 105 is configured to update user music title playlist database 863 (Figure 11) to update stored information corresponding to the bookmarked music clips for the particular music marker device user.

Deguchi, which discloses (Figure 15) that server terminal 105 (Figure 1) does not find a matching music vendor ID in music vendor ID database 864 (Figure 12) corresponding to a music marker device ID of music marker device 101 (Figure 1), and which retrieves from music clip playlist database 862 information corresponding to the bookmarked music clips and transmits the retrieved information to user terminal 103, does not teach or suggest failing to find a received vendor identifier at a host system and downloading, *responsive to such failing to find such received vendor identifier at such host system*, a program associated with a received hardware identifier over a communication channel from such host system to a target system.

McLlroy et al., which provides (column 18, lines 1-5) that “a specification 1040 comprising application description 1030 and the hardware and software information is used by software manager 950 to locate application source 915, or to locate application 1050 within application source 915,” does not teach or suggest failing to find a received vendor identifier at a host system and downloading, *responsive to such failing to find such received vendor identifier at such host system*, a program associated with a received hardware identifier over a communication channel from such host system to a target system.

The above points out specific distinctions believed to render Claim 1 patentable over the cited references.

Therefore, for the above reasons, Claim 1 patentably distinguishes over the references.

Claims 2, 4, 5, 8 and 23 depend from Claim 1 and patentably distinguish over the references for at least the same reasons.

Claim 11 is an independent claim, which, as amended, recites, *inter alia*, that a loader routine is further adapted, after failing to find a received vendor identifier at a host system, to download, responsive to such failing to find such received vendor identifier at such host system, a program associated with a received hardware identifier over a communication channel from a host system to a target system.

The Examiner admits (Office Action, page 12) that McLlroy et al. does not teach or suggest failing to find a received vendor identifier at a host system.

As such, McLlroy et al. must also not teach or suggest that a loader routine is further adapted, after failing to find a received vendor identifier at a host system, to download, ***responsive to such failing to find such received vendor identifier at such host system***, a program associated with a received hardware identifier over a communication channel from a host system to a target system.

Deguchi, which discloses (Figure 15) that server terminal 105 (Figure 1) does not find a matching music vendor ID in music vendor ID database 864 (Figure 12) corresponding to a music marker device ID of music marker device 101 (Figure 1), and which retrieves from music clip playlist database 862 information corresponding to the bookmarked music clips and transmits the retrieved information to user terminal 103, does not teach or suggest that a loader routine is further adapted, after failing to find a received vendor identifier at a host system, to download, ***responsive to such failing to find such received vendor identifier at such host system***, a program associated with a received hardware identifier over a communication channel from a host system to a target system.

McLlroy et al., which provides (column 18, lines 1-5) that “a specification 1040 comprising application description 1030 and the hardware and software information is used by software manager 950 to locate application source 915, or to locate application 1050 within application source 915,” does not teach or suggest after failing to find a received vendor identifier at a host system, to download, ***responsive to such failing to find such received vendor identifier at such host system***, a program associated with a received hardware identifier over a communication channel from a host system to a target system.

Therefore, for the above reasons, Claim 11 patentably distinguishes over the references.

Claims 12, 14-19, 21 and 22 depend either directly or indirectly from Claim 11 and patentably distinguish over the references for at least the same reasons.

The Examiner rejects Claim 6 on the ground of being unpatentable over McLlroy et al. in view of U.S. Patent No. 6,496,979 (Chen et al.) and U.S. Patent No. 5,860,012 (Luu).

Claim 6 is an independent claim, which, as amended, recites, *inter alia*, failing to find a file at a host system and downloading, responsive to such failing to find such file at such host system, a program associated with a received hardware identifier over a communication channel from such host system to a target system.

The Examiner admits (Office Action, page 21) that McLlroy et al. does not teach or suggest failing to find a file at a host system.

As such, McLlroy et al. must also not teach or suggest failing to find a file at a host system and downloading, ***responsive to such failing to find such file at such host system***, a program associated with a received hardware identifier over a communication channel from a host system to a target system.

It is submitted that Chen et al. adds nothing to McLlroy et al. regarding this refined recital. The Examiner apparently implicitly concedes this point at page 21 of the Office Action (in other words, the Examiner relies upon Chen et al. only for “storing said plurality of identifiers in a file at the host system”) and relies upon Luu, as is discussed below.

Luu discloses (column 5, lines 31-35) a personality file, which allows for custom installation of application software on a user workstation. For example, if the application is to be installed in a particular directory, it is specified through the personality file. A custom personality file resides on the user workstation. In operation, the installation program on the user workstation will search for the custom personality file. If no custom personality file is found, a default personality file will be utilized to perform the installation.

Luu, which discloses that if no custom personality file is found, a default personality file will be utilized to perform an installation, does not teach or suggest failing to find a file at a host system and downloading, ***responsive to such failing to find such file at such host system***, a program associated with a received hardware identifier over a communication channel from a host system to a target system.

McLlroy et al., which provides (column 18, lines 1-5) that “a specification 1040 comprising application description 1030 and the hardware and software information is used by software manager 950 to locate application source 915, or to locate application 1050

within application source 915,” does not teach or suggest failing to find a file at a host system and downloading, *responsive to* such *failing to find* such *file at* such *host system*, a program associated with a received hardware identifier over a communication channel from a host system to a target system.

Therefore, for the above reasons, Claim 6 patentably distinguishes over the references.

The Examiner rejects Claim 9 on the ground of being unpatentable over McLlroy et al. in view of Deguchi and further in view of Chen et al. and U.S. Patent No. 6,151,643 (Cheng et al.).

Claim 9 depends from Claim 1 and patentably distinguishes over McLlroy et al. and Deguchi for at least the same reasons.

It is submitted that Chen et al. and/or Cheng et al. add nothing to McLlroy et al. and Deguchi to render Claim 1 unpatentable.

The Examiner rejects Claim 10 on the ground of being unpatentable over McLlroy et al. in view of Deguchi and further in view of Chen et al..

Claim 10 depends from Claim 1 and patentably distinguishes over the references for at least the same reasons.

Reconsideration and early allowance are requested.

Respectfully submitted,

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